

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

JANICE HARGROVE WARREN

PLAINTIFF

v.

No. 4:19-cv-00655-BSM

CHARLES MCNULTY, et al.

DEFENDANTS

**BRIEF IN SUPPORT OF MOTION TO STRIKE PLAINTIFF'S RESPONSE TO
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND BRIEF IN SUPPORT**

Defendants move to strike Plaintiff's Response, Brief in Support and Response to Statement of Undisputed Facts to Defendants' Motion for Summary Judgment and Brief in Support. They do so because Plaintiff's filing was untimely according to Local Rule 7.2(b).

ARGUMENT

“District courts have broad discretion to set filing deadlines and enforce local rules.”

United States v. Ouachita Gravel Company, Inc., 2019 WL 5309118, at *3 (W.D. Ark. October 21, 2019) (slip opinion) (quoting *Reasonover v. St. Louis County, Mo.*, 447 F.3d 569, 64 Fed. R. Serv. 3d 1122 (8th Cir. 2006)). According to Fed. R. Civ. P. 6(b), the time for filing a document may be extended even after the deadline has passed if a party shows excusable neglect.

On August 12, 2020, Defendants filed a Motion for Summary Judgment, Brief in Support, and Statement of Facts. Dkt. Nos. 27-29. The deadline for Plaintiff to file these motions was fourteen days later, or August 26, 2020. Local Rule 7.2(b).

On August 25, 2020, Plaintiff filed a motion for extension of time to respond to Defendants' Motion for Summary Judgment, which was not opposed by Defendants. Dkt. No. 34. That same day, an order was entered allowing Plaintiff to file her Response by September 9, 2020. Dkt. No. 35.

Instead, Plaintiff filed her response and supporting documents one day later, on September 10, 2020. Plaintiff's response was untimely. To compound matters, Plaintiff refiled her response and supporting documents on September 11, 2020, claiming the refiling was to correct "two technical filing errors." Dkt. No. 41. This claim was false as the filings of September 11, 2020, namely Plaintiff's brief (Dkt. No. 42), was substantially different than the one previously filed (Dkt. No. 36-1).

Plaintiff filed her first response late, then had that response exchanged for an updated Response, which was filed two days later, based on a misrepresentation to the Court. Thereafter, Plaintiff failed to request an extension of time or file the applicable motion with the Court. Plaintiff also has not put forth an argument for excusable neglect.

CONCLUSION

Based upon the foregoing argument and authority, this Court should strike Plaintiff's response and supporting exhibits and motions to Defendants' Motion for Summary Judgment and Brief in Support.

Respectfully submitted,

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